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Donaldson; and Robin Mallgren*

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Full Circle of Living and
Dying, et al.,

Plaintiffs,

v.

Gina Sanchez in her official capacity as
Bureau Chief of the Cemetery and Funeral
Bureau, et al.,

Defendants.

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No. 2:20-cv-01306-KJM-KJN

CONSENT ORDER

1 1. The court has subject matter jurisdiction over this action under 28 U.S.C. § 1331,
2 42 U.S.C. § 1983, and the First and Fourteenth Amendments to the U.S. Constitution.

3 2. Venue is proper in the Eastern District of California under 28 U.S.C. § 1391
4 because defendant officials of the State of California may be found within the District in
5 Sacramento.

6 3. Plaintiffs have standing.

7 4. On January 24, 2023, the court entered an order on the parties' cross-motions for
8 summary judgment, which granted judgment and a permanent injunction. Summ. J. Order, ECF
9 No. 63.

10 5. The court entered a permanent injunction on February 13, 2023, reflecting the
11 conclusions from the summary-judgment order and the parties' agreed language for the terms of
12 the permanent injunction. Permanent Inj., ECF No. 65.

13 6. The parties agree that the summary-judgment order and permanent injunction shall
14 remain in full effect as to all issues not reserved for trial. The parties do not intend to alter the
15 court's order or permanent injunction, and they intend for the order and permanent injunction to
16 remain fully enforceable by this court.

17 7. In its summary-judgment order, the court denied summary judgment to both parties
18 and reserved for trial the issue of whether the Cemetery and Funeral Bureau can cite Full Circle's
19 doulas for acting as unlicensed funeral directors when they provide "hands-on" services. Summ.
20 J. Order at 29, 31–32. As reflected in the court's final pretrial order, that issue turned on two
21 questions: "(1) whether Full Circle's doulas are subject to funeral-director licensure when they
22 assist with home funerals, such as when they help wash, dress, reposition, and place a cooling
23 mechanism (e.g., dry ice), around a body, and when they procure cooling mechanisms for families
24 of the deceased; and (2) whether the United States Constitution permits requiring Full Circle's
25 doulas to be licensed funeral directors to provide those services." Final Pretrial Order at 7, ECF
26 No. 72.

27 8. The parties have reached a complete agreement as to the first question. None of
28 Full Circle's hands-on activities described in paragraph 9 fall within the statutory requirements to

1 obtain a funeral-director license under Business and Professions Code § 7615, when performed
2 consistent with the conditions described in paragraphs 9 and 10. Thus, the Bureau (on behalf of
3 all Defendants) has agreed that it will not cite or take other adverse action against Full Circle and
4 its doulas for performing the hands-on activities described in paragraphs 9 and 10 without funeral-
5 director licenses. Nor will the Bureau cite Full Circle and its doulas for advertising the hands-on
6 activities described in paragraphs 9 and 10, or for offering guidance about how to perform such
7 activities.

8 9. Specifically, the parties agree that Full Circle and its doulas perform the following
9 hands-on services, *see* Summ. J. Order at 21:

- 10 a. Relocating or positioning the body of the deceased within a home;
- 11 b. Washing the body;
- 12 c. Dressing the body;
- 13 d. Placing a cooling mechanism (e.g., dry ice) around the body; and
- 14 e. Procuring cooling mechanisms for families of the deceased.

15 10. Defendants agree that these hands-on activities fall outside the scope of Business
16 and Professions Code section 7615 under the following circumstances:

- 17 a. The activities are performed to prepare for a funeral conducted at a home
18 that is not a funeral establishment.
- 19 b. The activities are performed at the direction of, or on behalf of, a person
20 with the right to control the disposition of a decedent's remains pursuant to
21 Health and Safety Code section 7100.
- 22 c. Full Circle and its doulas do not otherwise prepare, direct, or supervise the
23 burial or disposal of human remains.

24 11. Because the parties agree that the funeral-licensing statutes do not require Full
25 Circle and its doulas to become individually licensed as funeral directors when performing
26 activities consistent with paragraphs 9 and 10, the second question reserved for trial—does such a
27 requirement violate the U.S. Constitution—is now moot.
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1 12. The parties agree that defendants will pay plaintiffs \$525,000, which resolves any
2 claim for attorneys' fees. Defendants shall make such payment upon certification of the funds or
3 approval by the California Department of Finance, on or before 120 days after entry of this order.
4 If, however, payment has not been made within that time, defendants shall owe nothing pursuant
5 to this paragraph and plaintiffs may move this court for an award of fees pursuant to 42 U.S.C.
6 § 1988. Accordingly, the deadline for any fees motion is extended to 180 days from entry of this
7 order, pursuant to Federal Rule of Civil Procedure 54(d)(2).

8 13. The parties stipulate, and the court agrees, that entry of this consent order fully
9 resolves this case. The parties agree not to appeal the summary-judgment order, permanent
10 injunction, entry of this consent order, or any other aspect of this action.

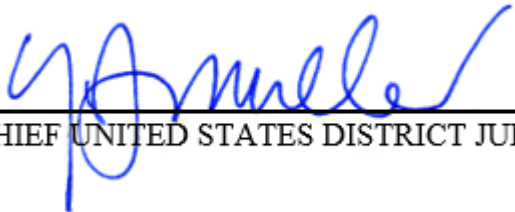
11 14. The court shall retain jurisdiction to monitor and enforce the terms of the parties'
12 agreement. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994); *K.C. ex rel.*
13 *Erica C. v. Torlakson*, 762 F.3d 963, 967 (9th Cir. 2014).

14 15. This consent order constitutes a final judgment for the purposes of Rule 58 and
15 terminates this case, except insofar as the court retains jurisdiction to enforce its terms.

16 IT IS SO ORDERED.

17 DATED: January 17, 2024.

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CHIEF UNITED STATES DISTRICT JUDGE